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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:**

**P-190691**

**DATE: September 14, 1978**

**MATTER OF:**

**John Amentas Decorators, Inc.**

**DIGEST:**

Protest filed with GAO more than 10 working days after protester's learning of initial adverse agency action on protest filed with agency is untimely and is dismissed.

John Amentas Decorators, Inc. (Amentas) protests the decision of the Department of the Army to cancel Invitation for Bids (IFB) NO. DAHC02-77-B02146 because of changes required to the scope of work. This is the second Amentas protest under the same invitation. The original protest questioned the Army's determination to permit correction of a competitor's bid and was the subject of our decision E-190691, April 17, 1978, 78-1 CPD 294. The facts of the prior protest are not germane to the present case.

On May 25, 1978, counsel for Amentas was advised by telephone (confirmed in writing by letter dated May 30, 1978) that the invitation had been canceled because of changes to the specifications. By letter dated June 13, 1978 Amentas advised that it could not understand the reason for the cancellation and filed a protest with the contracting officer. That protest was denied by letter of June 21, 1978.

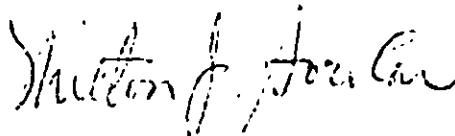
By telegram dated June 30, 1978, addressed to the contracting officer, Amentas "appealed" the denial, requesting that the "appeal" be referred to "DARCOM" (Headquarters U.S. Army Material Development and Readiness Command) for ruling. On July 26, 1978, DARCOM denied the protest as being without merit and as "'untimely raised' to this headquarters" under GAO bid protest procedures. On August 30, 1978, Amentas protested that decision to this Office.

Our bid protest procedures, set forth in Title 4 of the Code of Federal Regulations (CFR), Section 20.2(a) (1978), provide in pertinent part that:

"If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered provided the initial protest to the agency was filed in accordance with the time limits prescribed in \* \* \* this section \* \* \*."  
[In this case not later than 10 days after the basis for the protest is known or should have been known, whichever is earlier]

It appears that the basis for the original protest to the contracting agency was known on May 25, 1976 and that Amentas filed its original protest more than 10 working days after that date. In any event, it is clear that Amentas did not protest here within 10 days of the "initial adverse agency action", i.e., the denial of the protest by the Contracting Officer on June 21, 1978. In addition, Amentas clearly was on notice of the "final" agency denial (dated July 26, 1978) more than 10 working days prior to the time it filed its protest with this Office.

Under these circumstances the protest is untimely and will not be considered on its merits. The protest is dismissed.



for Paul G. Dembling  
General Counsel